

REMARKS

Claims 1-29, 31, and 36 have been canceled and claim 30 has been amended. Thus, claims 30 and 32-35 are currently pending in the application.

Claim 30 was rejected under 35 U.S.C. 103 as being unpatentable over Saab 5,624,392 in view of Saringer 5,895,418, Utterberg et al. 6,383,158, Noda et al 6,146,411 and Hyatt 4,800,823. Applicants respectfully traverse this rejection.

Applicants have amended claim 30 to recite that the step of providing a circuit includes a disposable circuit comprising, among other structure, a housing defining a pump section and a reservoir section, the housing also having an air vent disposed in a wall defining the reservoir section. None of the art cited, taken alone or in combination teach or even suggest such a disposable circuit having a housing that defines a pump section and a reservoir section. Moreover, none of the art cited, alone or in combination shows the feature of an air vent disposed in a wall of the housing defining the reservoir section.

As noted by the Examiner, Saab does not show the fluid supply structure. The Examiner has taken office notice that it is well known to provide a cover on device such as Saringer's to prevent damage or contamination. However, nowhere does Saringer show a housing defining a pump section and a reservoir section, with the housing also including an air vent disposed in a wall of the housing defining the reservoir section. Saringer does show a method of venting air, but the venting system of Saringer merely allows air to flow out of a pumping chamber into a fluid feed tube and back into a reservoir, where the top surface of the reservoir appears to be open to the atmosphere. Even if the top surface of Saringer's reservoir were closed, there is still nowhere to be found a vent of the type claimed by Applicants.

Applicants respectfully disagree with the Examiner's contention that Utterberg teaches a hydrophobic vent. Utterberg's transducer protector 40 is disclosed as being an air permeable, liquid blocking barrier 40, but its purpose is to protect a conventional pressure transducer 42 from fluid. Line 36, in which barrier 40 is placed, is sealed at one end the transducer 42 so as to allow transducer 42 to measure pressure fluctuations within Utterberg's fluid circuit. It does not allow air, or any other gas, to be vented. Moreover, the barrier 40 is placed in a fluid line; it is not disposed in a wall of a housing defining a reservoir section, as claimed by Applicants.

Moreover, while Saringer does show a heat exchange device, Saringer does not teach or even suggest a disposable circuit including a housing having a pump head and a reservoir disposed therein. Saringer's device is designed to accept a disposable pad, but all of the pumps and reservoirs disclosed by Saringer are not disposable, in contrast with the housing having a pump head and a reservoir disposed therein included in the method claimed in amended claim 30.

Even when the cited art is taken in combination, as suggested by the Examiner, one skilled in the art would still not obtain Applicants' invention. Even when five references are strung together using hindsight reconstruction, one skilled in the art would still not obtain a method including a step of providing the novel disposable circuit assembly as claimed in amended claim 30. Moreover, those skilled in the medical device art would immediately appreciate the term "disposable" to mean more than simply being capable of being thrown away, especially in view of the Examiner's stretch that term to include the device of Saringer. A skilled artisan in the area would never reasonably believe that the term "disposable," as that term is used in the medical device field, to mean that the entirety of Saringer's device would be thrown away after a single use. Skilled persons recognize that medical equipment is generally too costly to simply throw away, which is why such devices typically include re-usable portions that are not thrown away after a single use, and "disposable" components that are designed for a single use, and thus are less costly. Saringer may include such disposable components (such as the blanket), but a skilled person reading Saringer would never consider the pump and reservoir components disposable.

For all of the above reasons, Applicants believe that amended claim 30 is novel and not obvious in view of any of the art of record. Accordingly, Applicant respectfully requests that the rejection be withdrawn and that amended claim 30, and claims 32-25 dependent therefrom, be allowed.

CONCLUSION

Applicant have carefully reviewed the arguments presented in the Office Action and respectfully request entry of the amendment and reconsideration of the claims in view of the remarks presented. In light of the above amendments and remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Should the Examiner have any questions concerning the above amendments and arguments, or any suggestions for further amending the claims to obtain allowance, Applicants request that the Examiner contact Applicants' attorney, John Fitzgerald, at 310-242-2667.

Please charge any additional fees payable in connection with this Preliminary Amendment to our Deposit Account No. 06-2425.

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Respectfully submitted,

FULWIDER PATTON LLP

By: /john k. fitzgerald/
John K. Fitzgerald
Registration No. 38,881

JKF:vmm

Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696
Customer No. 24201
332463.1